

CHAPTER 1179

CIVIL RIGHTS

H. F. 2390

AN ACT amending the Iowa civil rights law.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Chapter six hundred one A (601A), Code 1977, is amended by adding the following new section:

NEW SECTION. ONE HUNDRED TWENTY-DAY ADMINISTRATIVE RELEASE.

1. A person claiming to be aggrieved by an unfair or discriminatory practice must initially seek an administrative relief by filing a complaint with the commission in accordance with section six hundred one A point fourteen (601A.14) of the Code. A complainant after the proper filing of a complaint with the commission, may subsequently commence an action for relief in the district court if all of the following conditions have been satisfied:

a. The complainant has timely filed the complaint with the commission as provided in subsection fifteen (15) of section six hundred one A point fourteen (601A.14) of the Code; and

b. The complaint has been on file with the commission for at least one hundred twenty days and the commission has issued a release to the complainant pursuant to subsection two (2) of this section.

2. Upon a request by the complainant, and after the expiration of one hundred twenty days from the timely filing of a complaint with the commission, the commission shall issue to the complainant a release stating that the complainant has a right to commence an action in the district court. A release under this subsection shall not be issued if a finding of no probable cause has been made on the complaint by the hearing officer charged with that duty under section twelve (12) of this Act, or a conciliation agreement has been executed under section six hundred one A point fourteen (601A.14) of the Code, or the commission has served notice of hearing upon the respondent pursuant to subsection six (6) of section six hundred one A point fourteen (601A.14) of the Code.

3. An action authorized under this section is barred unless commenced within ninety days after issuance by the commission of a release under subsection two (2) of this

section or within one year after the filing of the complaint, whichever occurs first. If a complainant obtains a release from the commission under subsection two (2) of this section, the commission shall be barred from further action on that complaint.

4. Venue for an action under this section shall be in the county in which the respondent resides or has its principal place of business, or in the county in which the alleged unfair or discriminatory practice occurred.

5. The district court may grant any relief in an action under this section which is authorized by subsection twelve (12) of section six hundred one A point fourteen (601A.14) of the Code to be issued by the commission. The district court may also award the respondent reasonable attorney's fees and court costs when the court finds that the complainant's action was frivolous.

6. It is the legislative intent of this Act that every complaint be at least preliminarily screened during the first one hundred twenty days.

Sec. 2. Section six hundred one A point two (601A.2), subsection seven (7), Code 1977, is amended to read as follows:

7. "Unfair practice" or "discriminatory practice" means those practices specified as unfair or discriminatory in sections 601A.6, 601A.7, six hundred one A point eight (601A.8), six hundred one A point nine (601A.9) of the Code, and 601A.10, and section twenty-two (22) of this Act.

Sec. 3. Section six hundred one A point two (601A.2), subsection ten (10), Code 1977, is amended by adding the following new paragraph:

NEW PARAGRAPH. "Public accommodation" includes each state and local government unit or tax-supported district of whatever kind, nature, or class that offers services, facilities, benefits, grants or goods to the public, gratuitously or otherwise. This paragraph shall not be construed by negative implication or otherwise to restrict any part or portion of the pre-existing definition of the term "public accommodation".

Sec. 4. Section six hundred one A point five (601A.5), subsections two (2) and three (3), Code 1977, are amended to read as follows:

2. To receive, investigate, and pass-upon finally determine the merits of complaints alleging unfair or discriminatory practices.

3. To investigate and study the existence, character, causes, and extent of discrimination in public accommodations,

employment, apprenticeship programs, on-the-job training programs, vocational schools, credit practices, and housing in this state and to attempt the elimination of such discrimination by education and conciliation.

Sec. 5. Section six hundred one A point six (601A.6), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. This section shall not prohibit discrimination on the basis of age if the person subject to the discrimination is under the age of eighteen years, unless that person is considered by law to be an adult.

Sec. 6. Section six hundred one A point six (601A.6), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Notwithstanding the provisions of this section, a state or federal program designed to benefit a specific age classification which serves a bona fide public purpose shall be permissible.

Sec. 7. Section six hundred one A point six (601A.6), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. This section shall not apply to age discrimination in bona fide apprenticeship employment programs if the employee is over forty-five years of age.

Sec. 8. Section six hundred one A point six (601A.6), subsection two (2), paragraph d, Code 1977, is amended to read as follows:

d. Any bona fide religious institution or its educational facility, association, corporation or society with respect to any qualifications for employment based on religion when such qualifications are related to a bona fide religious purpose. A religious qualification for instructional personnel or an administrative officer, serving in a supervisory capacity of a bona fide religious educational facility or religious institution, shall be presumed to be a bona fide occupational qualification.

Sec. 9. Section six hundred one A point eight (601A.8), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION.

4. To discriminate against the lessee or purchaser of any real property or housing accommodation or part, portion or interest of the real property or housing accommodation, or against any prospective lessee or purchaser of the property or accommodation, because of the race, color, creed, religion, sex, disability, age or national origin of persons who may from time to time be present in or on the lessee's or owner's premises for lawful purposes at the invitation of the lessee

or owner as friends, guests, visitors, relatives or in any similar capacity.

Sec. 10. Section six hundred one A point nine (601A.9), Code 1977, is amended to read as follows:

601A.9 UNFAIR CREDIT PRACTICES. It shall be an unfair or discriminatory practice for any:

1. ~~A-creditor-shall-not~~ Creditor to refuse to enter into a consumer credit transaction or impose finance charges or other terms or conditions more onerous than those regularly extended by that creditor to consumers of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex, or physical disability.

2. ~~A-person~~ Person authorized or licensed to do business in this state pursuant to chapter 524, 533, 534, 536, or 536A ~~shall-not~~ to refuse to loan or extend credit or to impose terms or conditions more onerous than those regularly extended to persons of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex or physical disability.

3. Creditor to refuse to offer credit life or health and accident insurance because of color, creed, national origin, race, religion, marital status, age, physical disability or sex. Refusal by a creditor to offer credit life or health and accident insurance based upon the age or physical disability of the consumer shall not ~~vioiate-the-provisiens of-this-section-provided~~ be an unfair or discriminatory practice if such denial is based solely upon bona fide underwriting considerations not prohibited by title XX.

The provisions of this section shall not be construed by negative implication or otherwise to narrow or restrict any other provisions of this chapter.

Sec. 11. Section six hundred one A point fourteen (601A.14), subsection one (1), Code 1977, is amended by striking unnumbered paragraph two (2).

Sec. 12. Section six hundred one A point fourteen (601A.14), subsection three (3), Code 1977, is amended by striking the subsection and inserting in lieu thereof the following:

3. a. After the filing of a verified complaint, a true copy shall be served within twenty days by certified mail on the person against whom the complaint is filed. An authorized member of the commission staff shall make a prompt investigation and shall issue a recommendation to a hearing officer under the jurisdiction of the commission, who shall

then issue a determination of probable cause or no probable cause.

b. For purposes of this Act, a hearing officer issuing a determination of probable cause or no probable cause under this section shall be exempt from the provisions of section seventeen A point seventeen (17A.17) of the Code.

c. If the hearing officer concurs with the investigating official that probable cause exists regarding the allegations of the complaint, the staff of the commission shall promptly endeavor to eliminate the discriminatory or unfair practice by conference, conciliation, and persuasion. If the hearing officer finds that no probable cause exists, the hearing officer shall issue a final order dismissing the complaint and shall promptly mail a copy to the complainant and to the respondent by certified mail. A finding of probable cause shall not be introduced into evidence in an action brought under section one (1) of this Act.

d. The commission staff must endeavor to eliminate the discriminatory or unfair practice by conference, conciliation, and persuasion for a period of thirty days following the initial conciliation meeting between the respondent and the commission staff after a finding of probable cause. After the expiration of thirty days, the director may order the conciliation conference and persuasion procedure provided in this section to be bypassed when the director determines the procedure is unworkable by reason of past patterns and practices of the respondent, or a statement by the respondent that the respondent is unwilling to continue with the conciliation. The director must have the approval of a commissioner before bypassing the conciliation, conference and persuasion procedure. Upon the bypassing of conciliation, the director shall state in writing the reasons for bypassing.

Sec. 13. Section six hundred one A point fourteen (601A.14), Code 1977, is amended by striking subsection five (5).

Sec. 14. Section six hundred one A point fourteen (601A.14), subsection six (6), Code 1977, is amended to read as follows:

6. When the ~~investigating-official~~ director is satisfied that further endeavor to settle a complaint by conference, conciliation, and persuasion ~~shall-be-futile~~ is unworkable and should be bypassed, and the thirty day period provided for in subsection three (3) of section six hundred one A point fourteen (601A.14) of the Code has expired without agreement,

~~the official shall report the same to the commission,--if the commission determines that the circumstances warrant,~~
~~it~~ the director with the approval of a commissioner, shall issue and cause to be served a written notice specifying the charges in the complaint as they may have been amended and the reasons for bypassing conciliation, if the conciliation is bypassed, and requiring the respondent to answer the charges of such the complaint at a hearing before the commission, a commissioner, or such other a person designated by the commission to conduct the hearing, hereafter referred to as the hearing examiner officer, and at a time and place to be specified in such the notice.

Sec. 15. Section six hundred one A point fourteen (601A.14), Code 1977, is amended by striking subsections eight (8) through eleven (11) and inserting in lieu thereof the following:

8. The hearing shall be conducted in accordance with the provisions of chapter seventeen A (17A) of the Code for contested cases. The burden of proof in such a hearing shall be on the commission.

Sec. 16. Section six hundred one A point fourteen (601A.14), subsection twelve (12), Code 1977, is amended by striking the subsection and inserting in lieu thereof the following:

12. If upon taking into consideration all of the evidence at a hearing, the commission determines that the respondent has engaged in a discriminatory or unfair practice, the commission shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice and to take the necessary remedial action as in the judgment of the commission will carry out the purposes of this chapter. A copy of the order shall be delivered to the respondent, the complainant, and to any other public officers and persons as the commission deems proper.

a. For the purposes of this subsection and pursuant to the provisions of this chapter "remedial action" includes but is not limited to the following:

(1) Hiring, reinstatement or upgrading of employees with or without pay. Interim earned income and unemployment compensation shall operate to reduce the pay otherwise allowable.

(2) Admission or restoration of individuals to a labor organization, admission to or participation in a guidance

program, apprenticeship training program, on-the-job training program or other occupational training or retraining program, with the utilization of objective criteria in the admission of individuals to such programs.

(3) Admission of individuals to a public accommodation or an educational institution.

(4) Sale, exchange, lease, rental, assignment or sublease of real property to an individual.

(5) Extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the respondent denied to the complainant because of the discriminatory or unfair practice.

(6) Reporting as to the manner of compliance.

(7) Posting notices in conspicuous places in the respondent's place of business in form prescribed by the commission and inclusion of notices in advertising material.

(8) Payment to the complainant of damages for an injury caused by the discriminatory or unfair practice which damages shall include but are not limited to actual damages, court costs and reasonable attorney fees.

b. In addition to the remedies provided in the preceding provisions of this subsection, the commission may issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this chapter as follows:

(1) In the case of a respondent operating by virtue of a license issued by the state or a political subdivision or agency, if the commission, upon notice to the respondent with an opportunity to be heard, determines that the respondent has engaged in a discriminatory or unfair practice and that the practice was authorized, requested, commanded, performed or knowingly or recklessly tolerated by the board of directors of the respondent or by an officer or executive agent acting within the scope of his or her employment, the commission shall so certify to the licensing agency. Unless the commission finding of a discriminatory or unfair practice is reversed in the course of judicial review, the finding of discrimination is binding on the licensing agency. If a certification is made pursuant to this subsection, the licensing agency may initiate licensee disciplinary procedures.

(2) In the case of a respondent who is found by the commission to have engaged in a discriminatory or unfair practice in the course of performing under a contract or subcontract

with the state or political subdivision or agency, if the practice was authorized, requested, commanded, performed, or knowingly or recklessly tolerated by the board of directors of the respondent or by an officer or executive agent acting within the scope of his or her employment, the commission shall so certify to the contracting agency. Unless the commission's finding of a discriminatory or unfair practice is reversed in the course of judicial review, the finding of discrimination is binding on the contracting agency.

(3) Upon receiving a certification made under this subsection, a contracting agency may take appropriate action to terminate a contract or portion thereof previously entered into with the respondent, either absolutely or on condition that the respondent carry out a program of compliance with the provisions of this Act; and assist the state and all political subdivisions and agencies thereof to refrain from entering into further contracts.

c. The election of an affirmative order under paragraph b of this subsection shall not bar the election of affirmative remedies provided in paragraph a of this subsection.

Sec. 17. Section six hundred one A point fourteen (601A.14), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The terms of a conciliation agreement reached with the respondent may require him or her to refrain in the future from committing discriminatory or unfair practices of the type stated in the agreement, to take remedial action as in the judgment of the commission will carry out the purposes of this Act, and to consent to the entry in an appropriate district court of a consent decree embodying the terms of the conciliation agreement. Violation of such a consent decree may be punished as contempt by the court in which it is filed, upon a showing by the commission of the violation at any time within six months of its occurrence. In all cases where a conciliation agreement is entered into, the commission shall issue an order stating its terms and furnish a copy of the order to the complainant, the respondent, and such other persons as the commission deems proper. At any time in its discretion, the commission may investigate whether the terms of the agreement are being complied with by the respondent.

Upon a finding that the terms of the conciliation agreement are not being complied with by the respondent, the commission shall take appropriate action to assure compliance.

Sec. 18. Section six hundred one A point fourteen (601A.14), subsection thirteen (13), Code 1977, is amended to read as follows:

13. If, upon taking into consideration all of the evidence at a hearing, the commission ~~shall find~~ finds that a respondent has not engaged in any such discriminatory or unfair practice, the commission shall ~~state its findings of fact and shall~~ issue and cause to be served an order denying relief and stating the findings of fact and conclusions of the commission, and shall cause a copy of the order dismissing the complaint to be served by certified mail on the complainant and the respondent dismissing the complaint.

Sec. 19: Section six hundred one A point fourteen (601A.14), subsection fifteen (15), Code 1977, is amended to read as follows:

15. ~~Any verified complaint filed under this chapter shall be so filed~~ A claim under this chapter shall not be maintained unless a complaint is filed with the commission within one hundred ~~twenty~~ eighty days after the alleged discriminatory or unfair practice occurred.

Sec. 20. Section six hundred one A point fifteen (601A.15), subsection one (1), Code 1977, is amended by adding the following new paragraph:

NEW PARAGRAPH. For purposes of the time limit for filing a petition for judicial review under the Iowa administrative procedure Act, specified by section seventeen A point nineteen (17A.19) of the Code, the issuance of a final decision of the commission under this chapter occurs on the date notice of the decision is mailed by certified mail, to the parties.

Sec. 21. Section six hundred one A point seventeen (601A.17), Code 1977, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Nothing in this chapter shall be construed as indicating an intent to prohibit an agency of local government having as its purpose the investigation and resolution of violations of this chapter from developing procedures and remedies necessary to insure the protection of rights secured by the Iowa civil rights Act. An agency of local government and the Iowa civil rights commission shall cooperate in the sharing of data and research, and coordinating investigations and conciliations in order to eliminate needless duplication.

NEW UNNUMBERED PARAGRAPH. The commission may designate an agency of local government as a referral agency. A local

agency shall not be designated a referral agency unless the ordinance creating it provides the same rights and remedies as are provided in this chapter. The commission shall establish by rules the procedures for designating a referral agency and the qualifications to be met by a referral agency.

NEW UNNUMBERED PARAGRAPH. A complainant who files a complaint with a referral agency having jurisdiction shall be prohibited from filing a complaint with the commission alleging violations based upon the same acts or practices cited in the original complaint; and a complainant who files a complaint with the commission shall be prohibited from filing a complaint with a referral agency alleging violations based upon the same acts or practices cited in the original complaint. However, the commission in its discretion may refer a complaint filed with the commission to a referral agency having jurisdiction over the parties for investigation and resolution; and a referral agency in its discretion may refer a complaint filed with that agency to the commission for investigation and resolution. The commission may promulgate rules establishing the procedures for referral of complaints. A referral agency may refuse to accept a case referred to it by the commission if the referral agency is unable to effect proper administration of the complaint. It shall be the burden of the referral agency to demonstrate that it is unable to properly administer that complaint.

NEW UNNUMBERED PARAGRAPH. A final decision by a referral agency shall be subject to judicial review as provided in section six hundred one A point fifteen (601A.15) of the Code in the same manner and to the same extent as a final decision of the commission.

NEW UNNUMBERED PARAGRAPH. The referral of a complaint by the commission to a referral agency or by a referral agency to the commission shall not affect the right of a complainant to commence an action in the district court under section one (1) of this Act.

Sec. 22. Chapter six hundred one A (601A), Code 1977, is amended by adding the following new section:

NEW SECTION. UNFAIR OR DISCRIMINATORY PRACTICES--EDUCATION. It shall be an unfair or discriminatory practice for any educational institution to discriminate on the basis of sex in any program or activity. Such discriminatory practices shall include but not be limited to the following practices:

1. On the basis of sex, exclusion of a person or persons from participation in, denial of the benefits of, or subjection

to discrimination in any academic, extracurricular, research, occupational training, or other program or activity except athletic programs;

2. On the basis of sex, denial of comparable opportunity in intramural and interscholastic athletic programs;

3. On the basis of sex, discrimination among persons in employment and the conditions thereof;

4. On the basis of sex, the application of any rule concerning the actual or potential parental, family or marital status of a person, or the exclusion of any person from any program or activity or employment because of pregnancy or related conditions dependent upon the physician's diagnosis and certification.

For the purpose of this section "educational institution" includes any public preschool, or elementary, secondary, or merged area school or area education agency and their governing boards. Nothing in this section shall be construed to prohibit any educational institution from maintaining separate toilet facilities, locker rooms or living facilities for the different sexes so long as comparable facilities are provided.

Sec. 23. This Act shall take effect January 1, 1979.

Approved June 29, 1978

CHAPTER 1180
SHORTHAND REPORTERS

S. F. 2008

AN ACT to provide a salary increase for shorthand reporters.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section six hundred five point eight (605.8), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

The base starting salary of a full-time certified shorthand reporter shall be fourteen thousand seven hundred dollars. The base salary may be increased by an amount not to exceed six hundred thirty dollars for each year of experience as a shorthand reporter. The maximum salary shall not exceed eighteen nineteen thousand eight seven hundred forty dollars except as provided in this section.

Sec. 2. Chapter six hundred five (605), Code 1977, is amended by adding the following new section: